



# TOWN OF HARWICH PLANNING BOARD

Duncan Berry Chair, Mary Maslowski, Ann Clark Tucker, Emily Brutti,  
Harry Munns and Allan Peterson

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**MEETING MINUTES  
HARWICH PLANNING BOARD  
GRIFFIN ROOM, TOWN HALL  
732 MAIN STREET, HARWICH, MA  
TUESDAY, March 25, 2025 - 6:30PM**

This meeting of the Harwich Planning Board was held in-person and was also available for viewing via the GoToMeeting format.

**MEMBERS PARTICIPATING:** Emily Brutti, Ann Clark Tucker, Allan Peterson (alternate chair), Harry Munns, and Mary Maslowski

**MEMBERS NOT PARTICIPATING:** Duncan Berry, Chair

**ALSO PARTICIPATING:** Christine Flynn, Director of Planning & Community Development

## **RECORDING NOTICE; CALL TO ORDER**

Mr. Peterson called the meeting of the Harwich Planning Board to order on Tuesday, March 25, 2025 at 6:30PM and read the Open meeting Law Notice.

### **I. PLEDGE OF ALLEGIANCE**

Mr. Peterson invited all attendees to join in the Pledge of Allegiance.

### **II. PUBLIC HEARING**

Mr. Peterson introduced the first case.

**Case # PB2025-01 Davenport Realty Trust**, owner Sam Speakman, LLC, Sam Speakman, Manager, authorizes Davenport Realty Trust, through its agent Attorney Paul R. Tardif seeks approval for a Two-Family Dwelling Special Permit. The proposed project is to construct a two-family dwelling. The application is pursuant to the Code of Harwich Sections §325-51 (N) and MGL Chapter 40A sections 9 and 11. The property is located at **9 Shelley Path**, Assessor's Map 55 Parcel F1-3-0 and the parcel is approximately 1.20 acres. The parcel is in the Residential Low-Density (RL) Zoning District.

Mr. Paul Tardif, attorney for Davenport Realty Trust, introduced himself and stated that Christian Davenport, Vice President for Operations at Davenport Companies was attending the meeting virtually. He summarized the history of the project, with the original definitive subdivision approved in 2017. He described the zoning compliance of the project and zoning district. He summarized the proposed project as a two-family residential dwelling with 2 bedrooms in each unit, with unfinished basements and attics. He related the project to another one that went through the Planning Board approximately 6 months ago. He detailed the requirements for the approval of the Two-Family Special Permit and stated that the project meets all the criteria. He highlighted that the plan was revised a few days prior to the meeting to include some additional items after recommendations from Town staff.

Ms. Flynn summarized the details of the case located at 9 Shelley Path as outlined in her staff report. She outlined that the Applicant's Representative is Paul R. Tardif, Esq. The project is located at Map Parcel ID 55-F1-3-0 within the Residential Low Density (RL) with a Lot Area of 52,305 Square Feet. The proposed project is to construct a Two-family dwelling unit with two bedrooms each, total of 4 bedrooms. The two units will be connected by a common roof, and each will have a floor area of 1,092 sf. Each unit shall have a full basement and unfinished attic space on the second floor. She highlighted that the Applicable Laws & Regulations Two-Family Special Permit include MGL Chapter 40A Section 9 and Harwich Zoning Sections 325-51 Special Permit and Section 325-51 (N) Two Family Dwelling. She summarized that application materials for a Two-Family Special Permit were submitted on January 23, 2025. The public hearing notice was advertised in the Cape Cod Chronicle on March 6<sup>th</sup>, 2025 and March 13<sup>th</sup>, 2025. Copies of the application package were sent to the following Departments inviting them to comment on the project: Health, Water, Fire, Conservation, Zoning, Public Works, and Police Departments. The Zoning Compliance Officer noted that the Site Plan's Zoning Table needs to be corrected to include Setbacks in the RL District for a Two-Family Special Permit. There were no other comments or concerns. She detailed that the lot size and frontage meet the requirement, and the proposed project is compliant with requirements of the two-family special permit.

Mr. Peterson asked the Board if they had any comments.

Ms. Maslowski asked about the connection to utilities that are indicated on the plans.

Ms. Flynn clarified that the revised plan includes the appropriate utility connections and that no condition is necessary

Ms. Tucker asked if this project is used as rental units and how many have already been constructed in Harwich.

Mr. Davenport estimated that there are approximately a dozen similar duplexes in Harwich that are rented at market rate.

Mr. Peterson asked the public for any comments.

No members of the public presented comments.

Mr. Munns asked for clarification on the proposed septic system location of leach fields and capacity.

Mr. Tardif detailed and indicated the location of all the septic components.

Ms. Maslowski made a motion to close the public hearing. Ms. Tucker seconded the motion.

Vote: 5:0. The motion was carried unanimously.

Ms. Maslowski made a motion to adopt the following findings of fact:

1. The Applicant and Trustee Paul R. Tardif, Esq. Davenport Realty Trust
2. The subject property is 9 Shelley Path, Harwich, MA 02645, Assessor's Map 55, Lot F1-3 is located in the Residential Low Density (RL) Zoning District
3. The proposed Site Plan demonstrates compliance with the Zoning Requirements for a Two-Family Dwelling Unit Special Permit including the following:
  - a. The lot size of 52,305 square feet meets the 40,000 square foot requirement
  - b. Each unit will be 1,092 square feet which exceeds the 800 Square foot minimum
  - c. The two dwelling units are connected by a common roof or a series of roofs.
  - d. Each unit has at least two off-street parking spaces
4. The Board further finds that the application satisfies the requirements of Section 325-51 Special Permits:
  - (a) The use as developed will not adversely affect the neighborhood.
  - (b) The specific site is an appropriate location for such a use, structure or condition.
  - (c) There will be no nuisance or serious hazard to vehicles or pedestrians.
  - (d) Adequate and appropriate facilities will be provided for the proper operation of the

proposed use. This includes the provision of appropriate sewage treatment facilities which provide for denitrification, when the permit granting authority deems such facilities necessary for protection of drinking water supply wells, ponds or saltwater embayments."

Ms. Brutti seconded the motion.

Vote: 5:0. The motion was carried unanimously.

Ms. Maslowski made a motion to grant the Two-Family Special Permit with the following conditions:

1. The proposed Two-Family Special Permit shall be in accordance with the Site Plan and associated materials referenced in the application above.
2. The Planning Board decision shall run with the property, conditions of approval shall be binding on future owners.
3. This Special Permit shall not take effect until a copy of the Decision, bearing the certification of the Town Clerk that twenty (20) days have elapsed after the filing of the decision and either that no appeal has been filed or that an appeal has been filed within such time period, is recorded in the Registry of Deeds and indexed under the name of the property owner of record and the parcel address.
4. This Special Permit shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 9, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.
5. Changes to the site not authorized under this decision will require further Planning Board review and modification to this decision.
6. The Applicant shall conform to the inspection, certification and as-built plan requirements outlined pursuant to the Code of the Town of Harwich.

Ms. Tucker seconded the motion.

Vote: 5:0. The motion was carried unanimously.

Mr. Tardif thanked the Board for their time.

Mr. Peterson introduced the next case.

**Case # PB2025-03** Cape Cod Regional Technical High School District (CCRTHSD), owner, through its agent **Jose Picardo of Green Seal Environmental LLC**, Agent for Solect Energy Development, Inc., seeks approval for a Site Plan Review Special Permit. The proposed project is to construct three canopy mounted large scale solar photovoltaic systems over an existing paved bus parking area. The application is pursuant to the Code of Harwich Sections §325-51 and 325-55 and MGL Chapter 40A sections 9 and 11. The property is located at **351 Pleasant Lake Ave**, Assessor's Map 82 Parcel A-1 and the parcel is approximately 67 acres. The parcel is in the Residential Low-Density (RL) Zoning District.

Mr. Stuart Clark, Green Seal Environmental LLC, introduced himself and stated that he is filling in for Jose Picardo as agent for the project. He summarized the details of the solar canopy project. He detailed that the parking lot is existing and has a stormwater drainage system approved and in place. He described the proposed design of the canopies. He stated that proposed project is compliant with all zoning requirements. He requested a waiver for the requirement of a stormwater drainage plan for the Site Plan Review Special Permit because the gaps between the solar panels will allow rainwater to flow off, with no significant impact on the existing flow of stormwater that was approved for the parking lot.

Ms. Flynn detailed the location of the project. She summarized the existing conditions of the parking lot and the proposed three-canopy construction. She detailed the applicable laws are MGL Chapter 40A section 9 and the Code of Harwich Zoning By-laws section 325-51 and 325-55. The project is located at 351 Pleasant Lake Avenue, Assessor's Map 82 Parcel A-1. The parcel is in the Residential Low Density (RL) Zoning District. As an educational use, it should be noted that the Cape Cod Regional Technical High School is exempt from local zoning regulations under MGL Chapter 40A Section 3. She described the waiver request for stormwater drainage plans and stated that she worked with the Town consulting engineer to ensure that the previously approved plans are adequate. She made a recommendation to the Board to approve the waiver. She highlighted that the project would require removal of lights and that any new light fixtures will have to be dark sky compliant. She detailed that a few trees on the perimeter will also have to be removed.

Mr. Munns asked if all the asphalt would have to be removed.

Mr. Clark answered that only patches of asphalt will be modified as necessary. He also stated that all lights will be under the panels, so they will be dark sky compliant.

Mr. Peterson asked if there were any members of the public that had comments.

Ms. Tucker asked where the energy generated by the panels will be used.

Mr. Ken Lecourse, Solect Energy Development, answered that the power will be used at the high school to offset energy consumption.

Mr. Peterson asked if there were any members of the public that had comments.

Ms. Maslowski made a motion to close the public hearing. Ms. Tucker seconded the motion.

Ms. Maslowski made a motion to adopt the following findings of fact:

1. The Applicant is the Cape Cod Regional Technical High School.
2. The Applicant's Agent is Jose Picardo, Green Seal Environmental LLC
3. The subject property is 351 Pleasant Lake Ave, Map 82 Parcel A-1
4. The property is located in the Residential Low Density (RL) Zoning District. Educational use is protected by right under MGL Chapter 40A Section 3.
5. The applicant seeks a Site Plan Review Special Permit Modification with waiver request: Stormwater Management and Drainage Plan.
6. The proposed project is to construct and install three Canopy Mounted Large Solar Photovoltaic Systems over the school's existing paved parking area for school buses. There will be some tree removal along the north and south edges of the parking lot.
7. All lighting poles within the canopied area shall be removed and replaced in conformance with dark sky compliant requirements.
8. The Planning Board has held a Public Hearing on March 25, 2025.
9. In addition, the Board finds that:
  - a) The use as developed will not adversely affect the neighborhood.
  - b) The specific site is an appropriate location for such a use, structure or condition.
  - c) There will be no nuisance or serious hazard to vehicles or pedestrians.
  - d) Adequate and appropriate facilities will be provided for the proper operation of the proposed use. This includes the provision of appropriate sewage treatment facilities which provide for denitrification, when the permit granting authority deems such facilities necessary for protection of drinking water supply wells, ponds or saltwater embayments."

Ms. Brutti seconded the motion.

Vote: 5:0. The motion was carried unanimously.

Ms. Maslowski made a motion to grant requested waiver of Stormwater Management and Drainage plan

Ms. Tucker seconded the motion.

Vote: 5:0. The motion was carried unanimously.

Ms. Maslowski made a motion to approve with conditions case number PB2025-03 Solect Energy Development, CCRTHS, 351 Pleasant Lake Ave, for approval of a Site Plan Review Special Permit and waiver of requirement for Stormwater Management and Drainage Plan, pursuant to 325-51 and §325-55 of the Codes of the Town of Harwich for property located at 351 Pleasant Lake Ave, Map 82, Parcel A-1, in the R-L Zoning District. Further, Educational Use is protected as of right under MGL Chapter 40A Section 3.

The decision is based on the aforementioned findings of fact and the fact that the application meets the necessary requirements and criteria for approval pursuant to the Code of Town of Harwich and with the following conditions imposed relative to the Site Plan Review Special Permit:

1. Proposed Engineered Plans Sheets: Existing Conditions Plan and Site Plan with Zoning Compliance Chart by Stuart D. Clark, Civil No. 40597 dated 01/08/2025 and Town Clerk stamp February 26, 2025
2. The proposed project is to construct and install three Canopy Mounted Large Solar Photovoltaic Systems over the school's existing paved parking area designated for school buses. There will be some tree removal along the north and south edges of the parking lot. Overall, the existing landscaping with trees and vegetation shall continue to provide appropriate screening from Oak Street.
3. All lighting poles within the canopied area shall be removed and replaced in conformance with dark sky compliant requirements.
4. The proposed Site Plan Special Permit, with Stormwater Management and Drainage Waiver, shall be in accordance with the Site Plan and associated materials referenced in the application above.
5. This decision shall run with the property, conditions of approval shall be binding on future owners.
6. This Special Permit shall not take effect until a copy of the Decision, bearing the certification of the Town Clerk that twenty (20) days have elapsed after the filing of the decision and either that no appeal has been filed or that an appeal has been filed within such time period, is recorded in the Registry of Deeds and indexed under the name of the property owner of record and the parcel address.
7. This Special Permit shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.
8. Changes to the site not authorized under this decision will require further Planning Board review and modification to this decision.
9. The Applicant shall conform to the inspection, certification and as-built plan requirements outlined pursuant to the Code of the Town of Harwich.
10. Further any provisions, of the Site Plan Review Special Permit Cases PB2018-18 and PB2023-32, not modified herein shall remain in full effect.

Mr. Clark corrected his stamp number from 40597 to 40697.

Ms. Brutti seconded the motion.

Vote: 5:0. The motion was carried unanimously.

Mr. Peterson introduced the next case.

**Case # PB2025-04 Brian Langelier**, Owner, seeks approval for a Site Plan Review Special Permit. The proposed project is to construct two addition(s) to an existing building that shall increase seating capacity. The application is pursuant to the Code of Harwich Sections §325-51 and 325-55 and MGL Chapter 40A sections 9 and 11. The property is located at **986 Route 28**, Assessor's Map 35-C2-0 and the parcel is approximately 0.99 acres. The parcel is in the Commercial Highway 1 (CH-1) Zoning District and the Massachusetts DEP Zone II Drinking Water Protection District.

Mr. Brian Langelier, owner, introduced himself and summarized the existing building permit for interior improvements. He detailed his intent to add a front porch inside the footprint of an existing patio to increase outside seating by 20 seats, as well as an addition on the rear of the building to expand the kitchen for inclusion of elements necessary for health code compliance.

Ms. Flynn described the location of the project and the submitted site plans. She summarized that the owner is Brian Langelier and location is 986 Route 28 which is the Commercial Highway 1 (CH-1) and Residential Rural (RR) Zoning Districts and Massachusetts DEP Zone II Drinking Water Protection District. She detailed that the lot area is 42,603 square feet. She stated that the proposed project is to construct 2 additions to the existing structure (formerly 'Castaways'). The front addition will increase seating with tables to 20 while the second addition to the rear of the building will be used for the additional restaurant's kitchen space. She summarized that according to Building Department and Health records, the seating and building occupancy load was 68. The applicant is looking to increase the capacity and has submitted new calculations for the building's occupancy load which have been signed off by the interim building commissioner, including both customers and employees indoors, at 76. The Health Department has also submitted information related to the seating capacity, including the outside seating, with a maximum capacity of 98 seats for the restaurant. The building load includes both customers (sitting or standing at the bar) and employees. The applicable laws and regulations include MGL Chapter 40A section 9 and the Code of Harwich Zoning By-laws section 325-51 and 325-55. The project was noticed in the Cape Cod Chronicle on March 6, 2025, and March 13, 2025. There were comments from multiple departments regarding the occupancy load which has been revised. Additionally, comments from the Building Department and Zoning Compliance Officer indicate that work on the parking lot has already begun with contractors on site. The Health Department reviewed the request and stated that no portion of the deck can cover a septic component and must provide unrestricted access to the grease trap. She described that the applicant has requested two waivers, for parking and stormwater management and drainage plans. She recommended that the Planning Board not grant the waiver for stormwater management and drainage plans because there are no plans in place for the existing restaurant and parking. She detailed that the applicant estimates that 6 employees will be present at a maximum shift, so the requirement would be 30 parking spots based on 77 seats. If there were a maximum of 98 seats, there would be 42 spots required. There is a history of overflow parking, which is not an issue, but she would recommend requiring a revised site plan indicating the number of spots including the overflow parking area and a clearly indicated handicap spot. She recommended that there could be a condition that a stormwater management plan be submitted and approved by the Town consulting engineer prior to issuance of a final building inspection. She listed the revisions to the site plan that she recommended requiring prior to issuance of a final building inspection including numbered parking spots, labeled handicap spot(s), and screening around the dumpster. She did not recommend requiring a traffic study because the restaurant has been in place for many years and no changes to entry and exit were made.

Mr. Peterson asked the Board if there were any questions or comments.

Ms. Maslowski asked about the timing to complete a stormwater management and drainage plan for the redeveloped parking lot. She stated that she is hesitant to support a waiver based on staff recommendation. She asked why the grass overflow area cannot be paved and used to meet the parking requirements.

Mr. Langelier stated that the parking lot is not being reconfigured at all, and that the pavement will be in the same configuration with no changes to parking spaces.

Ms. Maslowski stated that the repaving will result in grade adjustment.

Mr. Langelier summarized that he spoke to his engineer from Merrill Engineering and reviewed the changes to the parking lot that have been made. He stated that his engineer provided verbal feedback that there are no issues with runoff. He asked the Board if it would be sufficient to complete the calculations prior to the issuance of the final building inspection.

Ms. Maslowski stated her hesitation to grant the site plan with the final inspection contingency on submission of additional materials.

Mr. Langelier stated that the existing pavement was failing and that he is replacing the pavement in accordance with the previous plans.

Ms. Maslowski stated that the applicant is also asking for a parking waiver of the required spots for the increased capacity because the existing amount of parking spaces does not meet the required amount. She stated she is not comfortable granting the waiver.

Ms. Flynn detailed that as an alternative to the waiver, she could work with the applicant to obtain an approved stormwater drainage plan prior to paving the parking lot with the condition that the plans must be approved by the consulting Town Engineer and revised site plan reviewed by the Town Planner prior to the final building inspection.

Ms. Maslowski asked the Board and Town Planner if a continuance to April 8<sup>th</sup> would allow for the applicant to obtain the stormwater drainage plans and revised site plan.

Mr. Langelier stated that further delay would have significant impacts on the timeline of his project and the scheduled date to open the restaurant.

Ms. Maslowski acknowledged the applicant's concern. She stated that she is not comfortable approving the special permit without all the necessary requirements fulfilled.

Mr. Langelier asked for clarification on the waiver process.

Ms. Flynn stated that if the applicant is unable to provide stormwater management and drainage plans, they must ask for a waiver of this requirement. She summarized that her recommendation was to not grant the waiver, but to work with the applicant on submission of the requirements prior to the final building inspection, however it is ultimately up to the Board to make the decision.

Mr. Langelier restated the language within 325-55 (C)(2), that expansion or reconfiguration of parking lots triggers site plan review. He asked the Board to clarify how repaving the parking lot qualifies under those conditions.

Ms. Maslowski detailed that repaving the parking lot is considered a reconfiguration due to the change in grade. She stated that the applicant did not receive the permit prior to starting the work.

Mr. Langelier stated that he did not know that the permit was required to rip up and repave the parking lot.

Ms. Maslowski reiterated her recommendation to continue the public hearing to April 8<sup>th</sup>. She stated her understanding for the applicant's desire to open for the season, but that she is hesitant to grant the special permit without submission of the revised plans.

Mr. Munns asked if Ms. Maslowski is suggesting that the applicant submit a site plan for review.

Ms. Maslowski stated that based on the Staff's recommendation to not grant a waiver of requirement for the stormwater management and drainage plans, she would require the applicant to submit a revised site plan for review by the Board to ensure the grading is the same.

Ms. Flynn stated that the applicant triggered site plan review for 2 factors, one being the reconfiguration of the parking lot and the second being the addition to commercial space.

Mr. Munns asked for clarification on the definition of reconfiguration of parking lots.

Ms. Flynn described that repaving is considered a reconfiguration and would require stormwater management and drainage plans. She stated that there is no drainage information for the former parking lot, so this plan is necessary.

Ms. Maslowski asked for additional information relating to the comments from the Health Department related to the location of the grease trap under the proposed deck.

Mr. Langelier stated that he intends to modify the size of the deck to improve accessibility to the grease trap.

Ms. Maslowski asked where this will be included on the plans.

Mr. Langelier stated that the modification will be included on the as-built plans.

Ms. Maslowski restated her support for a two-week continuance to April 8<sup>th</sup>.

Mr. Langelier stated that he does not agree with the assessment that he is reconfiguring the parking lot because it is being repaved in the same way it was previously. He stated that he needed to repave it based on insurance requirements.

Ms. Maslowski restated that Staff does define the repaving as reconfiguration and that the two-week continuance would allow for submission of necessary materials.

Mr. Langelier stated that the continuance would have a significant impact on his ability to complete the project this year.

Ms. Maslowski summarized that the Board must uphold the requirements in the site plan review process.

Mr. Langelier stated that he has approval to put the binder down from the Town consulting Engineer.

Ms. Flynn clarified that the Town consulting Engineer recommended allowing the application of the binder due to rain events that would cause erosion of the base layer that was exposed in the unpermitted work.

Mr. Langelier asked if he placed the binder coat and waited to pave it until a revised site plan and stormwater management and drainage plan were approved by the Town, would the Board consider approving the addition of the deck and kitchen area during the current public hearing.

Ms. Maslowski answered that it is considered a change to the site plan, so it must go through the public hearing process. She asked Staff if the permit for repaving the parking lot is under the Building Department or Planning Department.

Ms. Flynn summarized that the applicant met with the community development team on February 6<sup>th</sup> and stated his intent to repave the parking lot. She stated that on that date, she told the applicant that repaving the parking lot would trigger the requirement for a site plan review special permit through the Planning Board, which he has not secured. She stated that her recommendation to apply the binder coat, with consultation from the engineer, was to prevent damage based on the unpermitted work that had already occurred. She summarized that the Town consulting engineer recommended the applicant work with an engineer to complete the drainage plans because it may become necessary to rip up sections and modify the area. She stated that she met with the applicant on March 14<sup>th</sup> and reiterated this information.

Mr. Langelier stated that he is not opposed to modifying the binder coat as necessary for drainage.

Ms. Maslowski stated that she is not in support of granting the site plan review special permit and that the approval is dependent on votes from all 5 members present. She stated her support for the project but highlighted the need for additional materials. She summarized her hesitation to allow for a portion of the project to be approved based on Board procedure.

Mr. Peterson stated that the Board has not approved projects in sections.

Mr. Munns asked if the Town Planner could provide a list of requirements for the applicant to complete during the proposed two-week continuance.

Ms. Flynn stated that the staff report included recommended conditions and requirements for the applicant.

Ms. Clark asked the applicant if the two-week continuance would prevent the applicant from opening this year.

Mr. Langelier stated that it would obstruct him from constructing the deck. He summarized that there is an existing patio that he could reconstruct 'leg-for-leg', or identical to previous patio, without Planning Board approval.

Ms. Maslowski summarized the definition of 'leg-for-leg' and how it applies only to the patio, and not the parking lot.

Mr. Langelier stated that he may have to modify his plan to construct the patio instead of the proposed deck.

Ms. Clark asked if a special meeting may be possible next week.

Ms. Maslowski stated that she is unavailable next week.

Ms. Flynn stated the option to condition a revised site plan prior to the final building inspection.

Ms. Maslowski stated her hesitation to approve a portion of the site plan without all the information during the public hearing.

Mr. Langelier stated that approval of the waiver of stormwater drainage plans would resolve the issue.

Ms. Maslowski clarified that the waiver request was required since the plan was not submitted, but that it is ultimately up to the Board to grant waiver requests.

Mr. Langelier described the existing drainage with no impact on roadways or abutting properties.

Ms. Maslowski stated that she understands the applicant's desire to move the project along, but that a continuance is the best option. She summarized the reasons for the project needing site plan review due to the reconfiguration of the parking lot and addition to the commercial structure.

Mr. Langelier restated his disagreement with the definition of reconfiguration.

Ms. Maslowski made a motion to continue the public hearing the April 8<sup>th</sup>, no earlier than 6:30PM.

Ms. Brutti seconded the motion.

Vote: 5:0. The motion was carried unanimously.

Mr. Peterson introduced the next case.

**Case # PB2025-05 19 Walkerwoods**, John and Deborah Duarte, owners, authorize Dillon Hoyt of Shoreline Pools, Agent, seeks a Special Permit to build a pool as an accessory to an allowed principal use within the Six Ponds Special District. The application is pursuant to the Code of the Town of Harwich §325-51 and 325-94 (A)(4) and MGL CH 40A sec 9. The property is located at **19 Walkerwoods Drive**, Assessor's Map 94, Parcel A5-4 and the parcel is approximately 2.5 acres. The parcel is in the Residential Rural (RR) District and the Six Ponds Special District.

Mr. Dillan Hoyt, Shoreline Pools Inc., reviewed the details of the project to construct an 18 ft by 36 ft in-ground swimming pool. He summarized the waivers requested based on previous cases completed by him with the Town.

Ms. Flynn read sections of her staff report, summarizing that John and Deborah Duarte, owners, through their agent Dillan Hoyt, Shoreline Pools Inc., are proposing to construct an in-ground swimming pool within the Six Ponds Special District. The applicable laws and regulations are MGL Chapter 40A section 9 and the Code of the Town of Harwich Section 325-94 (A) (4) Swimming Pool in the Six Ponds Special

District (DCPC) and 325-51 Special Permit. She detailed that the Application materials for a Special Permit to build a pool as an accessory to an allowed principal use within the Six Ponds Special District were submitted to the Town Clerk on February 26<sup>th</sup>, 2025. The public hearing notice was advertised in the Cape Cod Chronicle on March 6<sup>th</sup>, 2025 and March 13<sup>th</sup>, 2025. Copies of the application package were sent to the following Departments inviting them to comment on the project: Health, Water, Fire, Conservation, Zoning, Public Works, and Police Departments. The Conservation Department requested to ensure the trees in the landscaping plan will not be modified from the plans that were approved by the Conservation Commission. She recommended the Board grant the waivers requested by the Applicant for the requirement of 4 Full size 24"x36" plans (Proposed conditions plan is proper scale at 18"x24" plan.), Mark Areas Subject to Wetland Protection Act on plan, Detailed Calculations for required parking, Names, deed and plan references for all direct abutters, Notations indicating any variances or zoning relief wanted for property, Lighting on plan content, Easements on plan content, Building Plans pertaining to house (Pool Plans provided instead). She outlined that the project is being reviewed by the Board because construction of a swimming pool as an accessory use requires a Special Permit in the Six Ponds Special District.

Ms. Maslowski asked about the Conservation Commission condition.

Ms. Flynn stated that the Conservation Commission reviewed the project and required plantings that are in proximity to the pool. The condition would be that the plans return to the Conservation Commission if the plantings must be moved.

Ms. Tucker asked if the application is complete based on the waivers requested.

Ms. Flynn stated that the application is complete for the Special Permit request. The application is not for Site Plan Review and is only being seen by the Board in regard to the construction of the pool as an accessory use in the Six Ponds Special District.

Ms. Maslowski asked for clarification on the Conservation Commission's order of conditions.

Mr. Hoyt stated that the site has an order of conditions that was completed for the construction of the home, which is overseen by Blue Flax. The scope of work that falls under the order of conditions is being completed outside of the pool area.

Mr. Chris Bilek, Bilek Builders, stated that he holds the permit for construction of the property and that to remove 6-7 trees, there was an agreement to plant new trees in approved locations that are outside of the pool area.

Ms. Maslowski proposed that the condition be modified to 'Conservation Agent shall review and approve the location for planting of 6-7 trees prior to final building inspection'.

Mr. Munns asked about the size of the lot and proposed house.

Ms. Flynn answered the inquiry.

Mr. Munns asked about the porch between the house and the pool deck.

Mr. Billick stated that the indicated area is conditioned space and porch, which is included in the building permit.

Mr. Munns asked if the pool deck is part of the Special Permit application.

Ms. Maslowski answered that the Special Permit application is exclusively for the pool, not the porch or surrounding deck.

Ms. Maslowski made a motion to close the public hearing. Seconded by Ms. Tucker.

Vote: 5:0. The motion was carried unanimously.

Ms. Maslowski made a motion to adopt the following findings of fact:

1. The Applicant is Dillan Hoyt, Shoreline Pools Inc.
2. The subject property is 19 Walkerwoods Drive, Map 94 Parcel A5-4.
3. The property is located in the Residential Rural (RR) Zoning District and Six Ponds Special District.
4. The application materials for a Special Permit to build a pool as an accessory to an allowed principal use within the Six Ponds Special District were submitted on February 25<sup>th</sup>, 2025.
5. The applicant is seeking a use Special Permit in accordance with the requirements of the Code of the Town of Harwich Section 325-94 (A) (4). There are no specific findings or performance standards required for an accessory swimming pool within the Six Ponds Zoning District.
6. The Planning Board has held a Public Hearing on March 25<sup>th</sup>, 2025.
7. In addition, the Board finds that:
  - a. The use as developed will not adversely affect the neighborhood.
  - b. The specific site is an appropriate location for such a use, structure or condition.
  - c. There will be no nuisance or serious hazard to vehicles or pedestrians.
  - d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use. This includes the provision of appropriate sewage treatment facilities which provide for denitrification, when the permit granting authority deems such facilities necessary for protection of drinking water supply wells, ponds or saltwater embayments."

Ms. Tucker seconded the motion.

Vote: 5:0. The motion was carried unanimously.

Ms. Maslowski made a motion to grant the following waivers:

- 1) 4 Full size 24"x36" plans (Proposed conditions plan is proper scale at 18"x24" plan.) are not required.
- 2) Mark Areas Subject to Wetland Protection Act are not required on the plan, not applicable.
- 3) Detailed Calculations for required parking are not applicable,

- 4) Names, deed and plan references for all direct abutters are not necessary.
- 5) Notations indicating any variances or zoning relief granted for property are not required
- 6) Lighting on plan content are not required.
- 7) Easements on plan content are not required.
- 8) Building Plans pertaining to house are not required, as Pool Plans provided instead.

Ms. Brutti seconded the motion.

Vote: 5:0. The motion was carried unanimously.

Ms. Maslowski made a motion to **approve with conditions** case number PB2025-05 Shoreline Pools Inc., 19 Walkerwoods Drive, for approval a Special Permit to build a pool as an accessory to an allowed principal use within the Six Ponds Special District, pursuant to §325-51 and §325-594 of the Codes of the Town of Harwich for property located at 19 Walkerwoods Drive, Map 94 Parcel A5-4, in the Residential Rural (RR) Zoning District and Six Ponds Special District. The decision is based on the aforementioned findings of fact and the fact that the application meets the necessary requirements and criteria for approval pursuant to the Code of Town of Harwich and with the following conditions imposed relative to the Special Permit Review:

1. Recommended condition – Prior to draining water from the pool for closure in the off season, the owner shall not chlorinate or super chlorinate the pool for 3 days to lower the concentration of chlorine in the water.
2. Auto Cover is in compliance with Massachusetts Building Code.
3. The Conservation Agent shall review and approve the location for planting of 6 trees as stated under the current order of conditions prior to final building inspection.
4. This decision shall run with the property, conditions of approval shall be binding on future owners.
5. This Special Permit shall not take effect until a copy of the Decision, bearing the certification of the Town Clerk that twenty (20) days have elapsed after the filing of the decision and either that no appeal has been filed or that an appeal has been filed within such time period, is recorded in the Registry of Deeds and indexed under the name of the property owner of record and the parcel address.
6. This Special Permit shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.
7. Changes to the site not authorized under this decision will require further Planning Board review and modification to this decision.
8. The Applicant shall conform to the inspection, certification and as-built plan requirements outlined pursuant to the Code of the Town of Harwich.

Ms. Tucker seconded the motion.

Vote: 5:0. The motion was carried unanimously.

Mr. Hoyt thanked the Board.

### III. PUBLIC MEETING

Mr. Peterson introduced the next matter.

Case #2024-27 Wychmere Harbor Real Estate, LLC., through its agent, Andrew L. Singer, Esq., requests to withdraw without prejudice its application for Site Plan Review Special Permit and Use Special Permit to raze the existing hotel (2 buildings/34,860 sf) and replace with a new hotel (one building/82,660 sf), reconfigure and improve entrances and make other site upgrades. The property is located at 23 Snow Inn Road, Assessor's Map 8-P2-14 & 15.

Ms. Maslowski asked for clarification about the Cape Cod Commission Development of Regional Impact review process.

Ms. Flynn answered that the Applicant has withdrawn both from the Town of Harwich and Cape Cod Commission review processes prior to any decision having been made.

Mr. Maslowski made a motion to accept the request to withdraw without prejudice for Case #2024-27. Ms. Tucker seconded the motion.

Vote: 5:0. The motion was carried unanimously.

Mr. Peterson introduced the next case. He reviewed Case # PB2025-06 John McElwee, P.L.S., Cape & Islands Engineering, Inc., agent for Hall Family Trust & Queen Anne Acres LLC & Catherine Goff, and that the applicant requested an extension with continuance to April 8<sup>th</sup>, 2025.

Ms. Maslowski made a motion to continue Case #PB2025-06 to April 8<sup>th</sup>, 2025, no earlier than 6:30PM.

Ms. Brutti seconded the motion.

Vote: 5:0. The motion was carried unanimously.

Mr. Peterson introduced the next matter of ADU Bylaw Changes overview by Staff.

Ms. Flynn stated that the Board has been provided with the most recent revision of the ADU Bylaw. The public hearing will be held on April 8<sup>th</sup>, 2025. She summarized the need to revise the bylaw due to State regulation that came into effect on February 2<sup>nd</sup>, 2025 under the Affordable Homes Act. She detailed that the Town already allows ADUs up to 1000 square feet, but that the existing bylaw needs to be revised to comply with Chapter 40A, protected ADUs. She stated that following feedback by the Board, she has provided language to establish a special permit process for accessory apartments up to 1000 square feet as a second option for larger accessory apartments to maintain the original intent of the bylaw in the Town.

Ms. Maslowski asked for clarification on the size requirements in the State regulation.

Ms. Flynn stated that the protected use ADUs are limited to 900 square feet, or half of the square footage of the principal dwelling, whichever is smaller. The special permit accessory apartment process would allow from 901- 1000 square feet.

Ms. Maslowski stated that there may be a need for further revision of the special permit language due to limitations for certain sized principal dwellings.

Ms. Tucker recognized the issue but stated her support for providing the Town with the option through the special permit process.

Ms. Brutti stated her support for reviewing the language and presenting an option to make the special permit process more flexible for applicants.

Ms. Flynn stated that it is possible to revise the language in the public hearing process for approval at the Town Meeting.

Ms. Maslowski and Ms. Tucker agreed that the language should be reviewed by Town Counsel for revision to allow for a more viable special permit process.

Mr. Peterson and Ms. Maslowski reviewed scenarios for different sized principal dwellings under the current proposed revision of the ADU bylaw.

Mr. Peterson asked about requirements for kitchens in ADUs/ accessory apartments.

Ms. Maslowski answered that the units are required to have a full kitchen.

Ms. Maslowski made a motion to postpone the review of 1 Auston Rd Property Use, by Michael Ford, Attorney to April 8<sup>th</sup>, 2025. Seconded by Ms. Tucker.

Vote: 5:0. The motion was carried unanimously.

## **V. TOWN PLANNER UPDATE:**

### ***Local Comprehensive Plan Update***

Ms. Flynn stated that the Select Board plan approval has been deferred to the Fall Town Meeting. The plan will require Planning Board approval through a public hearing.

## **VI. ADJOURN**

Ms. Maslowski moved to adjourn. Seconded by Ms. Tucker.

Vote: 5:0 in favor. Motion carried unanimously.

Meeting adjourned at 8:09 PM.

Respectfully submitted,

Meg Salmon